

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on March 7, 2003 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 2, DAY 1, 2/25/2003
Executive Action: None

HEARING ON HB 2

Sponsor: Dave Lewis, HD 55

Opening Statement by Sponsor:

CHAIRMAN LEWIS opened the Hearing on HB 2, Exhibit 1, and gave the agenda as follows: Clayton Schenck, Legislative Fiscal Analyst, will give an overview on how to use the HB 2 Narrative. Terry Johnson, Legislative Fiscal Analyst, will give a General Fund status update and then the Chairman will go through the process and how it will be handled the next few days.

EXHIBIT (aph48a01)

Mr. Schenck said the bill in front of the committee, otherwise known as the gray bill, represents the subcommittee recommendations. Earlier in this session, this committee struck everything after the enacting clause in the original HB 2 with the Executive Budget, so during this process the committee will create a new bill.

To put HB 2 in perspective and give some summary data, **Mr. Schenck** referred the committee to the overview section of the binder, Page 7, the General Fund graph. HB 2 is well over 80 per cent of the entire General Fund. There are statutory appropriations and "cat and dog" bills and others, but the vast majority is in HB 2 which the committee is dealing with. There are \$2.3 billion in this budget that is recommended by the subcommittees. That is a \$2.4 million decrease when they compare by the statutory method, biennium by biennium, from last biennium in terms of General Fund. The chart on the bottom of Page 7 shows projections that either had decreases or increases.

Human Services decreased by \$23 million. That is due to re-financing some services with federal and county funds, replacement of General Fund with a proposed Prevention and Stabilization State Special Revenue Fund, and program reductions and restructuring. Some of those increases are partially offset by other actions. Although that shows a reduction of \$23 million, a large portion of that is offset by replacement of funds so it is not a true reduction.

Corrections shows an increase of \$3 million and that is partly due to the increased prison population projections and has been partially offset by an unspecified reduction.

Higher Education decreased by \$5.4 million which is due to unspecified reductions, partially offset by increases for statewide adjustments.

Public Schools show a decrease of \$2.4 million and that is primarily due to a reduction in ANB (average number belonging) and partially offset by additions for student assessment, special education, and retirement costs.

In the "All Other" category which includes over 20 agencies, the increase is a net of \$25 million. The primary reason for that is district court assumptions which were not in the base so the entire cost of that appears as an increase.

Mr. Schenck referred to the graphs on Page 9 and said this is the same information but is for the entire bill for total funds. It includes the General Fund and also State Special Revenue, Federal Funds and Proprietary. The bottom of the "pie chart" shows a total \$6.2 billion in this budget. The chart at the bottom of the page shows where increases are and this represents almost \$490,506 million dollars in increases in this budget from the current biennium. There is a significant change in the "pie chart" in terms of the allocation. The primary reason for that is that Human Services, highway construction and Fish Wildlife and Parks' funding is predominately from other funds.

State Special Revenue Funds increased by \$240 million which is almost a 32 percent increase. The most significant increase is \$82 million in Human Services which is primarily due to the use of tobacco settlement proceeds and additional county funds from intergovernmental transfers, and the establishment of a Prevention and Stabilization Fund.

Highway expenditures increased a total of \$112 million in terms of state special revenue, due to higher construction and also the issuance of bond proceeds for construction on Highway 93.

The charts on Page 11 give one other perspective of what is contained in this budget and is a breakdown by funding. The federal funds continue to increase and are approaching 50 percent of the total budget. The General Fund represents 36 percent of the total funding in this budget.

The table on Page 13 is a bar graph to give the committee a perspective of various measures. The table on Page 15 is the same table the committee has been using although it has been modified somewhat. The table shows subcommittee action to date. Right now \$106.6 million has been added back into the budget in various places.

The table on Page 16 gives a comparison with present law. The Subcommittee Minus Executive Column shows \$53 million below the Executive. The Executive Budget with \$98.4 million below present law indicates \$152 million as the budget now stands below present law measure as calculated by the Executive. When the committee adds back that \$50 million it would be about \$100 million below present law benchmark.

The table on Page 17 gives a summary by section in detail, compared to the Executive Budget. The table on Page 18 is the same table but for total funds compared to the Executive Budget. Pages 19 through 23 are General Fund by section but broken down by agencies. Pages 24 through 28 are again for total funds.

The Department of Corrections is \$11.6 million below the Executive but that includes an unspecified reduction that is not in concert with the current prison population projection.

The Department of Public Health and Human Services (DPHHS) is \$28.6 million below. That is primarily due to the use of state special revenue in a Prevention and Stabilization Fund to fund both current programs and programs proposed for elimination in the Executive Budget. After General Fund replacement adjustments, the DPHHS is effectively \$16 million above the Executive proposal.

Higher Education is almost \$6 million lower. That is an unspecified reduction because it does not reflect traditional funding methodology such as the enrollment formula for increased student population.

The Department of Justice is \$6 million lower due to replacement of a portion of the Motor Vehicle Division funding with highways state special revenue (\$6.3 million).

The Office of Public Instruction is \$5.2 million higher and that is because the legislature did not adopt various Executive new proposals which would have reduced the net funding.

On Pages 5 and 6 of the Narrative Overview, there is an explanation of the format in this bill. For example, Pages A-9 and A10, Judiciary.

Mr. Schenck completed his overview and asked for questions.

REP. JAYNE referred to the graphs on Page 9 and asked **Mr. Schenck** to clarify the \$170 million change into an accounting change. He referred the question to **Pat Gervais, Legislative Fiscal Division**. **Ms. Gervais** said the difference in the accounting

change has to do with the change in the distribution of food stamps. Prior to this biennium, food stamps were distributed from the contractor directly to the recipients and did not flow through the state treasury. With the implementation of the electronic benefit, the transfer of food stamp benefits now flow through the state treasury and then they are paid out on the electronic cards. Prior to when they were not going to the state treasury, they were a non-appropriated item not included in HB 2 because they were nonbudgeted and did not go through the state treasury. With the change to the flow into the state treasury they must now be included in the general appropriations.

REP. JUNEAU referred **Mr. Schenck** to Page 3 and would he explain the Prevention and Stabilization Fund. **Mr. Schenck** referred the committee to Page B-2 and asked Lois Steinbeck, Legislative Fiscal Division, to explain. **Ms. Steinbeck** said the subcommittee for Public Health and Human Services established several appropriations and they are listed as line-items in HB 2. Those appropriations are contingent on passage and approval and the creation of this Prevention and Stabilization Account. There is language in HB 2 that says, "One or more bills must be passed that establish this Account and it must be funded from at least \$32 million each year of the biennium." During the subcommittee deliberations there were several potential sources of revenue included.

The diagram on Page B-2 shows there are several sources of revenue that the subcommittee anticipated could be deposited to this Prevention and Stabilization Fund. The first is the Intermediate Care Facilities for the Mentally Retarded (ICF/MR) which is a bed tax and Medicaid pays part of the bed tax. The federal reimbursement for that bed tax would be 70 percent of the cost of the tax and it would flow into this account as the subcommittee envisioned the account being created. That would also include the Mental Health Nursing Care Center in Lewistown in the current Nursing Home bed tax, the same funding structure. Medicaid would pay part of the tax. It is anticipated that those funds would also come into this account. There are two bill numbers because those are subcommittee bills that the subcommittee requested. These are methods that other states are using. They are approved under federal Medicaid rules and claims and they would be able to fund as expenditures coming out of the Prevention and Stabilization Fund.

The subcommittee requested a bill, LC 2133 to divert part of the Tobacco Prevention and Control funds allocated by I-146 to this account and then they anticipated that other sources of revenue potentially include the cigarette tax up to 41 cents a pack and other tobacco tax from 12.5 percent to 25 percent of wholesale would be adequate to fund.

Page B-3 shows a rather long and complicated table. It shows the General Fund reductions in the first two numerical columns that were accepted by the subcommittee. So the subcommittee, even though it came out recommending \$70 million more than the Executive, did come out with a \$28 million General Fund reduction below the Executive Budget. The next two columns are the items that the subcommittee funded from the Prevention and Stabilization Account. Some of them offset reductions.

In response to a question from **REP. FRANKLIN** concerning present law, **Mr. Schenck** referred to Page 16. The graph gives a breakdown and would be the best quick reference for the committee.

CHAIRMAN LEWIS referred Mr. Schenck to Page 9 and said, "Basically, right now, we are almost half a billion dollars over the previous biennium budget. Does this include fiscal notes? He is thinking of the Hospital Utilization Feed bill he is carrying, the Nursing Home Utilization Feed bill **REP. CLARK** is carrying. Between them there are almost \$70 or \$80 million additional funds for hospitals and nursing homes. Are those included in this at this point?" **Mr. Schenck** said this is strictly what is in HB 2 so this is just the increase within this bill. **CHAIRMAN LEWIS** said, "So when they have a fiscal note they will be well over half a billion dollars higher with the budget than they are at the present time." **Mr. Schenck** said that would be his guess. **CHAIRMAN LEWIS** said, "After two months of subcommittee work, on the general fund side, they are basically at the 2003 budget. That is how he interprets the chart on Page 7." **Mr. Schenck** said that would be correct in regard to General Fund.

Terry Johnson, Legislative Fiscal Division, provided the committee with an update of the Traditional General Fund Balance Sheet.

EXHIBIT (aph48a02)

This status sheet reflects action through the transmittal.

He explained the column, "Fiscal Condition Without Legislative Action." This starting point is where the committee measures from as they take legislative action through the various bills. It shows a projected balance of almost \$151 million, in the red, before any action is taken. The analysis indicated a projected deficit of \$232 million. The reason it does not show that \$232 million is it does not include all of the present law adjustments. The reason for that is, when subcommittees start their action on HB 2, they start with a base. In normal times they start with the most current base which would have been FY

2002. This particular starting point is based on FY 2002 of that base, plus, what they call the state-wide present law adjustments. It does not include other present law adjustments such as caseload or population increases at the institutions etc. That is the difference between the \$151 million and the \$232 million.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 32.2}

The Revenue Adjustments were explained by **Mr. Johnson**. A subcommittee has been appointed to look at the revenue estimates and have adjusted the revenue estimates upward by about \$6.7 million. That is for a three-year period. Most of those adjustments deal with property taxes. Revenue estimates that were adopted last fall did not take into account the effects of reappraisal so that is built into the revenue estimates now. Also the protest portion of Pennsylvania Power and Light's taxes has been incorporated into the revenue estimate, at least the portion that affects state revenue. In addition to that there were some settlement payments that the State Auditor is anticipating collecting and that has been built into the \$6.7 million estimate. The subcommittee will meet to further discuss income taxes and corporation taxes and the plan is to wrap up their actions next week, refer the subcommittee recommendations to the full committee by Wednesday and, hopefully, have the Resolution on the floor of the House by next Friday.

Mr. Johnson referred to the HJR 2 Revenue Estimates and the \$45.5 million. That reflects those taxation, or revenue bills, that had positive action in one committee. It doesn't matter what committee it is. That information is contained on Page 2 in more detail. He referred to the Revenue Impact column and the Potential Impact column. Page 3 sums all of the revenue impact bills and that is where it shows the \$45.5 million. The largest portion of that \$45.5 million is coming from REP. BROWN's bill that transfers funds from the Old Fund to the General Fund. There are a number of smaller bills at this point to make up that \$45 million adjustment.

Below the Revenue Adjustments are the Appropriation Adjustments. Basically, what it shows there is summarizing the action of the subcommittees on HB 2. It shows \$145 million change. That is measured against the 2002 base plus state-wide adjustments. Under that is a summarization of other appropriation bills. It shows \$20.6 million. Again, referring to Page 2, it shows bill by bill and the impact of each bill that has an appropriation. Page 3 shows the total for all the other appropriation bills for a total of \$20.6 million.

The key number to focus on, is the very last number that shows the projected General Fund balance assuming, if the legislature adjourned today and all these bills were enacted, this is where they would be at this time. It would be a \$25.9 million projected balance.

There is a situation with one of the bills that was heard on the House floor. It is dealing with the Charitable Endowment so there might be an adjustment to the status of about \$3 million for that particular bill. There is a fiscal note that needs to be adjusted. Taking that into account the projected balance would be about \$23 million at this time.

There are a couple of things that are not included in this projected balance. The first thing is HB 3 and it has an estimated appropriation amount of about \$8 million. That has not been factored into this projected balance. There is HB 13 which has a "price tag" of about \$10 million and that has not been factored in. Taking into account both of those bills and the adjustment to the fiscal note for that other bill, there is a projected balance of about \$5.5 million.

Mr. Johnson referred the committee to Page 4 of the document, Exhibit 2, the General Fund Status Sheet. It shows the total numbers for anticipated revenue and total amounts of anticipated appropriations; not only just for HB 2 but also for statutory appropriations, transfers, etc.

The first block, (Page 4 of Exhibit 2) Fiscal 2003, shows a \$28 million ending fund balance. Earlier in the session that was a great concern because it was considerably less than that. The reason that has improved so dramatically is REP. BROWN's bill transfers about \$18 million to the General Fund in Fiscal 2003. That \$28 million balance does not take into account HB 3, the Supplemental bill. If that bill passes, that will drop to about \$20 million projected balance.

The other point to focus on for Fiscal 2004 is a negative fund balance of about \$1.7 million. There will have to be adjustments in order to have a balanced budget by fiscal year. Right now the budget is balanced on the biennium but on a fiscal year basis it is not. As Director Swysgood, Office of Budget and Program Planning, pointed out in his budget proposal, 2004 is a problem. That is showing up on this status.

Mr. Johnson referred to other information on this page. The middle block shows structural balance. Basically, that is ongoing revenues versus ongoing disbursements and Fiscal 2004 is a problem again. Fiscal 2005 shows a positive situation where the revenues are greater than the anticipated disbursements. The

last block is just a quick reference the committee can use. Each week the Legislative Fiscal Division highlights the major changes from the previous status.

The remaining pages are just summarizations of the subcommittee action as compared to the base budget and it is not the 2000 base budget but to the 2002 base budget.

Mr. Johnson handed out Exhibit 3, Corporate Taxes and Individual Income Taxes, which are summarized data. These two key revenue sources contributed to a majority of the problem, in terms of the budget deficit. What his office does, actually on a daily basis, is tap into the State Accounting System and monitor all of the General Fund sources and pay particular attention to the corporation and individual income taxes and see how they are doing on a day-by-day basis as compared to the revenue estimates. The two key items are in Figures 6 and 7. This basically shows how the collections are doing with these two revenue sources as compared to the same period last year.

Figure 6 is for corporation income taxes. On the accounting system, the Department of Revenue records revenues at this level of detail so they can determine how much was collected from current year corporation taxes, estimated payments, refunds and audit collections. That is the limit of the detail on the accounting system. But comparisons are made from one year to the next and in this case, a snapshot was taken as of the end of February. They are down about \$9.4 million which is about a 57% decline as compared to the previous year. Last year there were \$40.1 million in collections. This year there are \$24.1 million. That is a decline of \$16 million as compared to last year or about a 40% decline in anticipated revenues.

Built into the revenue estimates are corporation tax revenues expected to decline by about 21% so they are at a further decline than anticipated, based at this point in time. They are very nervous about corporation taxes but at the same time, when they look at the refund activity, that refund activity that went out last fall and definitely skews the collection activity for the entire year. The bottom line numbers look like there is real trouble in this area, but if the unique refund activities are adjusted, it is not quite as bad as it looks.

Figure 7 is laid out exactly the same way except for the individual income tax. This again is a combination of good news and bad news. The first thing is Withholding Tax which is up 6.50% over the same period of last year. That is pretty consistent. Estimated payments are traditionally due to non-wage income, such as capital gains, earnings off of CDs, passbook

accounts or royalty payments and that is very consistent with last year. At least it's not going down any further.

When looking at individual income tax, it is up almost 2% as compared to last year which is almost identical to what was built into the revenue estimates for 2003. Looking at these two components, there is a mixture of good news and bad news. Obviously, income tax is good news and since it produces about 45% of the total General Fund revenue, that is the source you want to have the "good news" in.

Corporation tax is a very volatile source. To try to look at month-by-month activity is very difficult. Right now they are not advocating any adjustments in the revenue estimates. The reason for that is there are other components that are doing slightly better than what was expected.

EXHIBIT (aph48a03)

REP. KASTEN asked Mr. Johnson to further explain the fourth line on the list in Figure 6. **Mr. Johnson** said the fourth item is Corporation Tax-Audit Collections. This is audit activity when the Department of Revenue audits corporations. Basically, what this indicates is, that at the end of February \$4.7 million was collected in audit revenues compared to last year at this same time when \$1.2 million was collected. There is a substantial change in the audit activity. Audit revenues don't come in on a specifically timely basis. They are not consistent from month to month. Just because they were ahead of last year doesn't mean that by the end of this year they will be ahead. It might mean there were some unusual audits early this year as compared to last year.

REP. FRANKLIN asked Mr. Johnson to review the relationship between corporate tax refunds that mitigated the decrease in corporate tax collections. **Mr. Johnson** said, "In terms of refund activity, last fall they were aware that there was going to be \$9.5 million unusual refunds (one-time event refunds) over and above the normal refund activity and that they would be in the months of November and December. That is what actually happened. If those refunds are extrapolated on a year-to-date fashion, the refund activity is projected to continue to grow for the rest of the year, but that is not the case. There are unusual refunds and they are not going to happen again in this fiscal year."

REP. BUZZAS asked if those were large one-time refunds due to legislation. **Mr. Johnson** said, "No, they were not."

CHAIRMAN LEWIS said, "Withholding tax is up 6.50%. What was the estimate in the revenue estimate?" **Mr. Johnson** said they had a

phased-in growth rate and by Fiscal 2005 they had wages and salaries growing by about 5%. They were right about 3% for this fiscal year so it has almost double of what they were expecting. **CHAIRMAN LEWIS** said, "Then the concern is on the refund side and that is incomplete data because they are not done processing taxes." **Mr. Johnson** said, "Definitely." **CHAIRMAN LEWIS** commented on fund balances and there are two or three bills in other committees that will add a fund balance but they are not counted until they actually come out of committee. **Mr. Johnson** said, "Yes, that is the rule. A bill has to have positive executive action in any committee and until that happens it won't show up."

{Tape: 1; Side: B; Approx. Time Counter: 0 - 27.2}

In answer to a question from REP. BUZZAS concerning reorganization, **Lois Steinbeck, Legislative Fiscal Division**, said there are two elements incorporated. As of July 1 the Executive Branch is going to reorganize the Health Policy Services Division and combine all of the Medicaid programs for physicians and hospitals in a separate division. The subcommittee, as part of its work, wanted suggestions from the executive on better ways to administer and manage Children's Mental Health Services. It was the executive proposal that Children's Mental Health Services be moved from Addictive and Mental Disorders Division into the new division. The subcommittee asked that staff reflect that into the appropriations bill. It will not change the bottom line funding. **CHAIRMAN LEWIS** said they will instruct the staff to proceed with putting the reorganization in.

In response to a clarification request from REP. FRANKLIN concerning the agenda, **CHAIRMAN LEWIS** said the committee will do some technical amendments, global amendments, Section A, D, E, B, C and then the boiler plate.

TECHNICAL AMENDMENT

Mr. Schenck said a technical amendment means things that don't affect the bottom line but just need to be changed and in this case to reflect subcommittee action. **Mr. Schenck** explained each amendment, HB000201.alz, Exhibit 4

EXHIBIT (aph48a04)

Motion/Vote: REP. LINDEEN moved Technical Amendments, HB000201.alz, Exhibit 4. Motion carried unanimously on a voice vote.

SECTION A**Legislative Branch****CHAIRPERSON REP. BRUEGGEMAN, General Government and**

Transportation gave a recap of subcommittee action, Page A-1 of Exhibit 1. With the Legislative Branch, they reached a deal between leadership and the agency. They came forward with a number of cuts; \$1.8 million in reductions which is a substantial effort on their part. This was agreed upon by leadership in both Houses and both sides of the aisle. Basically, it eliminates all the new proposals, including some information technology reductions, in-cost reductions and some other investigative reductions with the Legislative Audit Office and some general reduction to the operating budget.

Mr. Schenck said there is a \$1.9 reduction from the original budget request in the Governor's budget that was approved by the Interim Committees. This represents a maintenance budget and takes out anything in the area of Information Technology (IT) with regard to enhancement. He and his staff can support this budget.

In answer to a question from REP. FRANKLIN regarding reduction in services, **REP. BRUEGGEMAN** said, "With respect to those reductions in services, most of them will be found in the IT services that the legislative branch has to offer. The intention was not to reduce FTE but to retain the existing staff resources."

REP. KAUFMANN asked about the other significant kinds of reductions and how that might impact legislators' abilities to conduct research, etc. **REP. BRUEGGEMAN** said, "All of the meetings of interim committee biennial operations will be reduced by one meeting per year."

REP. JUNEAU asked what base was used to develop this budget. "Was it the 2000 base or the 2002 base?" **REP. BRUEGGEMAN** said they obviously started with the 2000 base as it was adopted. They then looked at all the executive decision packages that the Governor's office had put forth and were based on the legislative recommendations. A lot of those were pared back and then they actually moved to accept the total package that was proposed by the legislative branch.

Mr. Schenck referred to Page A-3, one of the programs in the legislative branch. The base there is 2002 because that is how the executive developed the budget based upon the last completed full year. All of these are based on the 2002 base. That was the real starting point as far as the executive budget analysis.

It was cut back by the committee and then there was an unspecified reduction for every agency and that became a new decision package so it is reflected in the Present Law Table.

In terms of the rollback to 2000, it actually added back \$2.4 million and the \$1.9 million is still below the executive.

Lois Menzies, Legislative Services Division, explained the FTE question from **REP. SINRUD**. Those are temporary staff that are added for the 2005 legislative session.

In response to a question from **REP. FRANKLIN** regarding employee compensation time, **Mr. Schenck** said, "In the Legislative Services and Legislative Fiscal Divisions there is a cyclical workload for the staff so they are able to under staff. By design, they put in more hours in those two Divisions during the sessions but in the Interim they build a work plan to take that off. With the exception of three staff, it is under control."

Consumer Counsel

REP. BRUEGGEMAN said the Consumer Counsel represents the adoption of the proposed budget. The Consumer Counsel is an entity that is funded by taxes levied on those entities that are regulated by the Public Service Commission. This is all special revenue and the subcommittee accepted the Governor's proposal on this budget.

Bob Nelson, Consumer Counsel, said they have a pretty simple straightforward budget and will answer any questions the committee might have.

Judiciary

REP. BRUEGEMANN referred the committee to Page A-9 of Exhibit 1. The subcommittee had some difficulty because there were a number of different proposals as to what they were going to do with district court assumption. The Supreme Court subsequent proposal to the legislature was about \$2 million above the Governor's proposal and where they are right now, with the fiscal condition, saw fit to move up to the Governor's proposal which is about \$5 million beyond the 2000 base, knowing that the Judiciary's request would bring them to about \$7 million beyond the 2000 base so they are about \$2.4 million difference from where the Judiciary would like to be.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 29.6}

Karla Gray, Chief Justice, Montana Supreme Court, asked the committee to take a serious look at the Judicial budget and not

leave them underfunded because of the action to adopt the district court assumption.

REP. LINDEEN referred to Chief Justice Gray's statement about coming in for a supplemental next session. **Ms. Gray** said, "No, that would be if the Committee did give them the extra \$2.4 million, they cannot be sure, at this point, because they don't have a single year of historic data under state assumption to be able to predict with great assurance what these various costs are going to run in the current biennium." **REP. LINDEEN** referred to **Ms. Gray** saying, "In subcommittee discussion, you did not believe in coming in for supplementals." **Ms. Gray** said she doesn't believe in the supplemental process. On the other hand, this is a very peculiar situation because of state assumption.

Lisa Smith, Office of Court Administration, said, "When they came into the session, they had high projections based on their historic district court reimbursement program. They looked only at those numbers because those were numbers they had collected. There were too many unknowns. They looked at their information and made a couple assumptions because they didn't know exactly what the costs were. Those assumptions drove the numbers up higher. Those were high projections, not higher than what they needed to be from their perspective at that time. They cannot manage this budget if there are any global reductions or if they have any vacancy savings."

CHAIRMAN LEWIS said, "The issue is, do we lay the costs back on the counties if we overrun and, if so, is there some protection at the top?"

REP. CALLAHAN asked for more clarification on this issue. **Ms. Smith** referred to Page A-9, Exhibit 1. There is a Table of the branch-wide budget. The base budget of 2002 was \$10.4 million. Present Law base adjustment shows \$19.6 million; \$19.3 million of that is district court. Their approach is \$2.3 million above the executive, \$1.8 million of that is district court assumption. They are still struggling to get the three roving law clerks that **SEN. STAPLETON** approved in the last session of one-time-only law clerks for the Supreme Court Justices. They are going to lose them June 30. They also need to get authorized FTE for 1.25 FTE they currently have on board and are trying to get one more for administrative services because they have not paid any of the public defenders/indigent defense bills for Fiscal 2003. The staff has been overwhelmed with the workload. They are trying to get some vacancy savings back in the law library because it was offered up in an attempt to meet the Governor's reductions.

REP. JAYNE referred **REP. BRUEGGEMAN** to Page A-1, Line 22 of the bill. Exhibit 5. She asked, "Is that an increase or a decrease?" **REP. BRUEGGEMAN** said that would be a General Fund increase of \$113,000 in 2004 and about \$99,000 in 2005. **REP. JAYNE** asked the same question of District Court Operations, Page A-2, Line 5 of the bill. **REP. BRUEGGEMAN** said that would be an increase of about \$19 million in 2004 and about \$20 million in 2005.

EXHIBIT (aph48a05)

REP. WITT asked **Ms. Smith** to clarify Page A-2 of the bill, HB 18. **Ms. Smith** said HB 18 is the Court Automation bill and it provides for a surcharge on case filings. It is about \$3.4 million over the biennium to fund court automation state-wide.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 29.2}

In answer to a question from **REP. JAYNE** concerning the Supreme Court program, **Lynn Zanto, Legislative Fiscal Division**, said it mainly is statewide present law adjustment for personal services or a pay plan increase. The Supreme Court Justices' salaries are in there.

Montana Chiropractic Legal Panel

REP. BRUEGGEMAN referred the committee to Page A-21 of Exhibit 1, saying there has been a budget of about \$30,000. There has been a Committee bill that was introduced and is being carried by **REP. SINRUD** and basically, what this will do is take them off the budget.

Governor's Office

REP. BRUEGGEMAN said the approved budget is about \$500,000 short of their proposed budget. One of the difficulties is the option the subcommittee had to reduce the budget, either in the Office of Budget and Program Planning or some of the programs such as Coordinator of Indian Affairs, Economic Development Office or the Mental Health Ombudsman budget. They realized that those were essential services.

REP. BUZZAS asked if those programs are likely to be cut with the \$500,000 reduction. **REP. BRUEGGEMAN** said the \$500,000 is an unspecified reduction so it will be up to the Governor's office to manage the cuts.

Barbara Ranf, Chief of Staff, Office of the Governor, said they know it is a very difficult financial time for the state and is

concerned about an unspecified reduction of \$500,000. The reductions they proposed in the executive budget were 11% reduction General Fund between HB 2 and statutory General Fund appropriations. It will be very difficult to make these reductions because they have had no changes in their statutory requirements in the programs just mentioned.

REP. JUNEAU referred to Pages A-3 and A-4 of the bill, Exhibit 5. "Will \$500,000 have to be taken off of the figures there?" **REP. BRUEGGEMAN** said the \$500,000 reduction is already built into the those figures.

In answer to a question from **REP. JUNEAU** concerning salaries in the Indian Affairs office, **Mary Jo Murray, Administrator, Central Services, Governor's office**, said it is about \$42,000 a year. **REP. JUNEAU** asked how that compares to a department head's salary. **Ms. Murray** said a department head's salary is about \$86,000.

REP. FRANKLIN referred to Page A-25 of the Narrative, Exhibit 1, the Executive Protection Contract. "Was there any discussion in the subcommittee to lower the cost of that?" **REP. BRUEGGEMAN** said the \$130,000 is for a contract with the Highway Patrol. They provide two full-time officers for the protection of the Governor. The subcommittee discussed the merits of the proposal and accepted the fact that there has to be protection for the Governor's office. **Lynn Zanto, Legislative Fiscal Division**, said, "During the special session there was a request to look at privatization of that security contract and the costs were relatively the same."

REP. KAUFMANN asked, "What is the mechanism for the legislature and the public to understand how the cuts will be made after the legislature is gone? What Interim Committee would work on it?" **CHAIRMAN LEWIS** said the Legislative Finance Committee would review the operational planning.

REP. KAUFMANN asked Ms. Ranf if she had any flexibility to eliminate the Governor's staff to make up the \$500,000. **Ms. Ranf** said staff is what she will have to look at. **REP. KAUFMANN** made a comment to the committee, saying, "It seems like somebody here has to eliminate or reduce programs, and she thinks it should be the legislature and not the Governor."

REP. BUZZAS referred to Page A-23 of the Narrative, Exhibit 1 and quoted: "These reductions are partially offset by increased funding for executive protection, legislative session costs, and the addition of 1.00 FTE in the Lieutenant Governor's Office."

REP. BRUEGGEMAN said the contract for executive protection is

\$130,000 for the two highway patrolmen. That wasn't in the budget last session. **Ms. Ranf** said the contract with the Highway Patrol is for two officers. Only one officer is with the Governor at a time on official business only.

In response to a question from REP. BUZZAS concerning the 1.00 FTE in the Lieutenant Governor's Office, **REP. BRUEGGEMAN** said that is an FTE that is currently placed as the Governor's Education Coordinator in the Lieutenant Governor's Office.

REP. HEDGES asked Ms. Ranf if it would help to statutorily move some of these offices to the Department of Administration or the Department of Commerce so there would be more flexibility in terms of personnel adjustment. **Ms. Ranf** said there are some proposals this year to move the Flathead Basin Commission because there is no General Fund in that. That would be more of an administrative change. There is a proposal to move the Consensus Council to the Department of Administration, or potentially the University system.

REP. JAYNE referred to Page A-3 of the bill, Line 10, the Mansion Maintenance Program and what does the \$79,000 per year pay for.

REP. BRUEGGEMAN said that is for the ongoing operations for the grounds, caretaker, etc. **CHAIRMAN LEWIS** said the total Personal Services is \$48,000 for 1.5 FTE as noted on Page A-27 of the Narrative, Exhibit 1.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 29.5}

Ms. Murray said there is a full-time cook/housekeeper and there is a half-time custodial person at the Governor's residence.

REP. FRANKLIN asked Bonnie Adee, Mental Health Ombudsman Program, what she would need to run a viable operation. **Ms. Adee** said, "In the budget, there is a proposal, combined with some activities of the Board of Visitors that are also eligible for federal funding so it would have the Ombudsman office basically covered. There is the opportunity through the Medicaid match to apply up to 50%. There is very little flexibility beyond the salaries." **Ms. Zanto** said, "Initially with the executive budget, they were removing General Fund and weren't sure how they would meet the federal fund match. The office has explored obtaining additional Medicaid match through the Mental Disabilities Board. As of now the Ombudsman program will be funded."

REP. BUZZAS reminded the committee of her amendment she presented during the special session to eliminate the Office of Economic Opportunity. During the special session the total figure for the Office of Economic Opportunity and the Governor's protection was

about \$850,000. About \$85,000 or \$90,000 was being paid for protection. With this budget the protection is \$130,000 and the Office of Economic Opportunity is \$1.6 million. Just since last year this budget shows almost doubling. "We need to keep that in mind as we move forward." **Chuck Swysgood, Office of Budget and Program Planning**, said, "When the executive protection was established for the Governor, the funds were taken from the Office of Economic Development's funding because excess money remained there because people were hired for less than was anticipated with the creation of that office. When the funding was established for executive protection, there was \$145,000 and \$115,000 that was transferred over for the funding for that. This funding of \$130,000 that is currently in the executive budget is based on actual expenditures, so it is down from about the same level as when the office was established. During the 2001 session, it was decided to provide executive protection for the Governor and it was left up to his discretion as to how they were going to fund it."

"When the office of Economic Development was first established, there was \$1.6 million of General Fund associated with that and \$350,000 of statutory money, and the statutory money has now been eliminated so their budget is around \$780,000."

Ms. Zanto said, "For the 2003 biennium the total budget was \$2.4 million. That would be the \$350,000 statutory appropriation per year, plus the \$850,000 in actual HB 2. During the special session that budget was perused about \$1.6 million. The current budget is \$1.6 million."

In response to a question from **REP. BUZZAS** concerning the workforce activities, DP 104, Page A-25, **Dave Gibson, Governor's Office**, said, "The workforce position is a position that comes with the Workforce Investment Act in the State Workforce Board. That position is filled with a temporary position. The primary function is organizing the State Workforce Board, which is now only a year and a half old. Executive committees of that Board coordinate the Board meetings."

Secretary of State's Office

REP. BRUEGGEMAN referred to Page A-36 of the Narrative, Exhibit 1 saying this agency is an enterprise account. There are actually no decision packages with respect to that or approval of rates. They is actually a 4% reduction in their rates for the next biennium. The only decision they had was the Help America Vote Act. There will be \$20 million provided by the federal government to replace the punch card ballot system to go to more optical scans for more information on voter turnout etc. There

is also up to \$750,000 of state special revenue for them to match up to \$20 million of federal funds, contingent upon whether the federal government will authorize.

Pat Haffey, Representative of the Secretary of State's Office, said they are satisfied with the work the subcommittee did.

In response to a question from **REP. BUZZAS**, concerning fees and how they are collected, **Ms. Haffey** said the fees that the Secretary of State's Office operates on are proprietary fees. They receive fees in the business service section from the businesses that they serve, registration of documents etc. Administrative rules, Records Management, and also receive fees from the agencies they serve. Essentially, all of those fees are molded into an enterprise fund and then they operate their services out of that fund.

In answer to a question from **REP. JAYNE, Greg DeWitt, Legislative Fiscal Division**, said, "Because this is an enterprise fund, or an internal service fund, they submit a cash-flow document that is in the Fiscal Division's budget analysis book. For the office, in Fiscal 2002, their revenues are \$2.8 million with expenditures commensurate with that."

Commissioner of Political Practices

REP. BRUEGGEMAN said the Commissioner of Political Practices' budget was \$322,913 for 2004 and \$317,525 for 2005. There were no changes made from the executive budget.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 29.1}

Linda Vaughey, Commissioner, said she and her staff thanked the subcommittee for their good hearing and questions.

REP. KAUFMANN referred a question to Ms. Vaughey concerning \$113,000 less than the present law adjustment. "What kind of services will be cut?" **CHAIRMAN LEWIS** answered the question by saying, "They never had the present law money so that is not a cut." **Lynn Zanto, Legislative Fiscal Division**, said, "Their one negative decision package was approved in the budget which basically continues special session and Governor reductions."

Mr. Vaughey said those reductions included reductions in personal services which were over-time hours. They have managed to address that internally, primarily through providing information to candidates and committees via the internet. They are also communicating by e-mail almost exclusively.

REP. SINRUD asked Mr. Schenck to explain the present law adjustments and the percentage of increase they have for the next biennium's increase in that base year. "Is there an average increase?" **Mr. Schenck** said they can go back to two biennia and calculate. It will vary and will exceed 5%, possibly closer to 7%, a year. Inflation is one thing but it is caseload, prison population and student populations that really drive it. It is demand for services. He will get that number.

State Auditor's Office

REP. BRUEGGEMAN said this budget is about \$100,000 or 1.2% below the amount recommended by the Governor. Some of the major changes were additional money for rent in the old Shodair Children's Hospital which was an oversight in the executive budget, some discussion for added services for examination of insurance, and investment entities. Some additional staff was provided for that.

John Huth, Administrator, Centralized Services Division, said he would be available for questions.

In reference to a question from **REP. BUZZAS**, **Mr. Huth** said the Securities Department had roughly \$115,000 reduced and when that reduction came about there was also \$11,000 with the Governor's reduction. The Budget Office reduced the operating in Securities \$43,000 when they did their review of the budget and then the Legislative Fiscal Division reduced it approximately \$55,000 additional dollars. New fees will subsidize the ability to maintain services at the current level.

Department of Transportation

REP. BRUEGGEMAN said the difference is from the executive budget. The legislative budget is \$9.5 million in total funds greater than the executive budget. Federal special revenue funds account for \$18.8 million of the increased wealth. A reduction of \$9.3 million state special revenue leaves the department with a \$9.3 increase. He quoted the Executive Budget Comparison, Page A-47 of the Narrative, Exhibit 1.

Dave Galt, Director, Department of Transportation, said he was very pleased with their budget and the work of the subcommittee.

REP. KAUFMANN asked Director Galt to explain the Gas Tax Account. **Mr. Galt** said that account is in good shape. They have made significant changes in the Department's operation. They are

building this budget on a \$325 million program and it is sustainable into 2007, 2008 and 2009. They have the tools to manage that budget and should not be before the next legislative session asking for a tax increase.

REP. MUSGROVE asked Mr. Galt about the .75 of a cent that goes to the underground mitigation fund. **Mr. Galt** said .75 of a cent of gasoline tax is taken off the top and goes to the Department of Environmental Quality. That would amount to less than \$3 million and goes to an account held in the Department of Environmental Quality and is not in the Department of Transportation budget.

The committee took a break at 11:40 a.m. and re-convened at 3:20 p.m.

Jason Thielman, Secretary of State's Office, arrived to answer questions some of the committee members had raised earlier.

REP. LINDEEN said, "Since the Secretary of State's budget was heard in the subcommittee, there was a particular development and that has to do with an attorney that was hired to reject their re-apportionment plan and could he enlighten the committee what fund would be used to pay for the attorney and what fees make up that fund?" **Mr. Thielen** said, "There is only one fund, an enterprise fund, which is a proprietary fund and any litigation that they had and the costs their office incurred, are funded out of that particular fund. As a public entity, they have no recourse other than to use public funds for their expenses. The items that flow into the enterprise account fall into the service categories that are responsible to the Secretary of State. The first is under business services; any filings when a new corporation is formed, the corporations fill out their annual reports on a regular basis; when somebody does a registration of a name or a trademark with the state's chief records manager, the Secretary of State's office collects fees for storage and disposal of records across the state, as the chief election officer, all election filing fees, and fees for the electronic data base."

{Tape: 4; Side: A; Approx. Time Counter: 0 - 29.3}

REP. BUZZAS asked Mr. Thielman for the costs of hiring the attorney and does he know what the estimated costs might be. **Mr. Thielman** said he has no experience with redistricting litigation, the amount of time or effort that is going to take. He feels what they are doing is as economical as possible. He does not know what it will cost.

REP. JUNEAU asked what the dollar amount of the contract is that they have with the attorney and does that compare with their

legal staff they have now. **Mr. Thielman** said they have received no billable hours at this point in time from the law firm. The cost for a staff attorney from the firm is \$125 per hour and it is \$75 per hour or less for a paralegal.

REP. JAYNE asked why their office picked that particular law firm, (Gough, Shanahan, Johnson and Waterman) as there are several attorneys from there that are lobbying. **Mr. Thielman** said they chose that law firm because they have significant experience in constitutional issues.

In response to a question from **REP. RIPLEY** concerning the litigation, **Mr. Thielman** said he believes the expenses that will be incurred in this particular instance will be less than the Old Person vs. Cooney case that **REP. JUNEAU** mentioned.

Department of Revenue

REP. BRUEGGEMAN said the legislative budget is \$471,559 in total funds less than the executive budget for the biennium. This difference is all made up of General Fund. Some of the issues that make up for that reduction are:

Not accepting a \$250,000 biennial appropriation for an upgrade of the Oracle software.

Not accepting a \$131,000 in General Fund for increased contract costs associated with the CAMAS (Computer Assisted Mass Appraisal System) computer system. Also \$164,000 in General Fund reduction to reduce the CAMAS operating expenses.

A \$40,000 reduction to reduce the number of computers that would be replaced in the next biennium, thereby putting them on a 5 1/2 year replacement cycle for their computers and \$113,000 increase because this committee tabled a bill that would have stopped the increase to the counties for the rent that they charged to the Department of Revenue so they had to put that back.

Kurt Alme, Director, Department of Revenue, said his department does not object to the additional cuts made by the subcommittee. They were done in a manner that avoided their programming functions. The final issue, and obviously the major caveat, is relative to the computer system. They are working with the Department of Administration as well as the Department of Labor to come forward with cost estimates and alternatives for that system. The legislature is considering SB 271, a bill that would require the department to begin efforts to replace POINTS.

However, at this time, the legislative budget provides no funding for a POINTS replacement effort.

REP. KAUFMANN asked Mr. Alme where his department is in relation to the Governor's budget. **Mr. Alme** said they are below the Governor's budget by about \$471,000.

In response to a question from **REP. LINDEEN** concerning the POINTS' (Process Oriented Integrated System) issue, **Mr. Alme** said his department is doing their best to come up with a project plan to work on. The department wants to make sure they have the organization and capacity to make a new project right.

CHAIRMAN LEWIS asked if they are writing off the \$37 million that was invested in that system. **Mr. Alme** said they are replacing the whole system so the answer is "Yes." The POINTS system has been used since 1999 so some value was obtained from the POINTS I phase.

Department of Administration

REP. BRUEGGEMAN referred to Page A-86 of the Narrative, Exhibit 1. There was a net reduction in General Fund of about \$523,000 and an increase of \$452,000 of state special revenue. The department basically absorbed some of their administrative overhead into the rates they charge. The subcommittee eliminated \$64,000 General Fund subsidy for Statewide Fueling Network.

Steve Bender, Deputy Director, Department of Administration

{Tape: 4; Side: B; Approx. Time Counter: 0 - 26.9}

Mr. Bender said his department is comfortable with its budget and thanked the subcommittee for their work.

In response to questions from **REPS. FRANKLIN** and **BUZZAS**, **Mr. Bender** said, "Given the magnitude of reductions, they would have had to cut core programs. They did not reduce increased rates to pay for this. They budgeted some of the money to pay for the Director's office. Instead of doing a rate reduction and rolling that out to the agencies, they get \$1 dollar of General Fund savings of every \$1 dollar of the proprietary funding."

REP. SINRUD referred to Page A-114, DP 1505, Montana Lottery, Product Cost Increase and felt it was detrimental to Montana. He also referred to Item #3, participation in a televised game show, and urged the committee to look through the proposals to understand what policy decisions are being made apart from the legislators' participation within the departments.

Appellate Defender

REP. BRUEGGEMAN said this agency handles indigent defense of the state's lawless. Typically they have been on state special revenue and that has actually been changed to General Fund so there is about a \$316,000 increase. General Fund began supporting the operations of the office in Fiscal 2003. There is a \$16,000 reduction from the executive budget for the Appellate Defender's office. The whole budget is about \$360,000.

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REP. BRUEGGEMAN thanked the committee for a good hearing on this Section. He offered and explained technical amendments.

Motion/Vote: **REP. BRUEGGEMAN** moved that HB 2 BE AMENDED, HB000203.agd. Motion carried unanimously on a voice vote.
EXHIBIT (aph48a06)

Motion/Vote: **REP. BRUEGGEMAN** moved that HB 2 BE AMENDED, HB000204.alt. Motion carried unanimously on a voice vote.
EXHIBIT (aph48a07)

Motion/Vote: **REP. PATTISON** moved that HB 2 BE AMENDED, HB000207.alz. Motion carried unanimously on a voice vote.
EXHIBIT (aph48a08)

Motion/Vote: **REP. BRUEGGEMAN** moved that Section A of HB 2 BE CLOSED. Motion carried unanimously on a voice vote.

{Tape: 5; Side: A; Approx. Time Counter: 0 - 27.7}

ADJOURNMENT

Adjournment: 4:15 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph48aad)